UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

ELIZABETH THOMPSON and LYNN CARDINALE, on behalf of)	
themselves and those similarly situated,)	
Plaintiffs,)	
v.)	No. 3:12-1093 Judge Sharp
DIRECT GENERAL CONSUMER)	suage Sharp
PRODUCTS, INC., et. al.,)	
Defendants.)	

<u>ORDER</u>

For the reasons set forth in the accompanying Memorandum, the Court rules as follows:

- (1) Defendants' Motion to Dismiss (Docket No. 105) is hereby GRANTED with respect to the 85 non-responsive opt-in Plaintiffs as listed in Docket No. 106 at 3-5, but DENIED as to opt-in Plaintiff Margaret Brookhouser, who appears on page 3 of that list. The 85 non-responsive Plaintiffs are hereby DISMISSED WITH PREJUDICE from this action.
- (2) Plaintiffs' Motion for Partial Summary Judgment (Docket No. 107) is hereby GRANTED on their claims that Defendants Direct General Insurance Agency, Inc., Direct General Agency of Georgia, Inc., and Direct General Insurance Agency of Tennessee, Inc. miscalculated the regular rate of pay, and resulting overtime pay, by including hours for time not worked in calculating same, while simultaneously excluding the pay received for such hours. Whether a particular Plaintiff or opt-in Plaintiff has been harmed by that practice is a matter yet to be determined.

It is SO ORDERED.

KEVIN H. SHARP

UNITED STATES DISTRICT JUDGE